



Rep. Harry Osterman

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LRB094 17686 LJB 56666 a

1 AMENDMENT TO HOUSE BILL 4853

2 AMENDMENT NO. _____. Amend House Bill 4853, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Procurement Code is amended by
6 adding Section 50-14.5 as follows:

7 (30 ILCS 500/50-14.5 new)

8 Sec. 50-14.5. Lead Poisoning Prevention Act violations.
9 Owners of residential buildings who have committed a willful or
10 knowing violation of the Lead Poisoning Prevention Act are
11 prohibited from doing business with the State of Illinois or
12 any State agency until the violation is mitigated.

13 Section 10. The Lead Poisoning Prevention Act is amended by
14 changing Sections 2, 3, 4, 5, 6, 7.1, 8, and 12 and by adding
15 Sections 6.01, 6.3, 9.2, 9.3, 9.4, and 12.1 as follows:

16 (410 ILCS 45/2) (from Ch. 111 1/2, par. 1302)

17 Sec. 2. Definitions. As used in this Act:

18 "Abatement" means the removal or encapsulation of all
19 leadbearing substances in a residential building or dwelling
20 unit.

21 "Child care facility" means any structure used by a child
22 care provider licensed by the Department of Children and Family

1 Services or public school structure frequented by children
2 through 6 years of age.

3 "Delegate agency" means a unit of local government or
4 health department approved by the Department to carry out the
5 provisions of this Act.

6 "Department" means the Department of Public Health of the
7 State of Illinois.

8 "Dwelling" means any structure all or part of which is
9 designed or used for human habitation.

10 "High risk area" means an area in the State determined by
11 the Department to be high risk for lead exposure for children
12 through 6 years of age. The Department shall consider, but not
13 be limited to, the following factors to determine a high risk
14 area: age and condition (using Department of Housing and Urban
15 Development definitions of "slum" and "blighted") of housing,
16 proximity to highway traffic or heavy local traffic or both,
17 percentage of housing determined as rental or vacant, proximity
18 to industry using lead, established incidence of elevated blood
19 lead levels in children, percentage of population living below
20 200% of federal poverty guidelines, and number of children
21 residing in the area who are 6 years of age or younger.

22 "Exposed surface" means any interior or exterior surface of
23 a dwelling or residential building.

24 "Lead abatement contractor" means any person or entity
25 licensed by the Department to perform lead abatement and
26 mitigation.

27 "Lead abatement worker" means any person employed by a lead
28 abatement contractor and licensed by the Department to perform
29 lead abatement and mitigation.

30 "Lead bearing substance" means any item containing or
31 coated with lead such that the lead content is more than
32 six-hundredths of one percent (0.06%) lead by total weight; or
33 any dust on surfaces or in furniture or other nonpermanent
34 elements of the dwelling; or ~~and~~ any paint or other surface

1 coating material containing more than five-tenths of one
2 percent (0.5%) lead by total weight (calculated as lead metal)
3 in the total non-volatile content of liquid paint;~~;~~ or lead
4 bearing substances containing greater than one milligram per
5 square centimeter or any lower standard for lead content in
6 residential paint as may be established by federal law or
7 regulation; or more than 1 milligram per square centimeter in
8 the dried film of paint or previously applied substance; or
9 item or dust on item ~~object~~ containing lead in excess of the
10 amount specified in the rules and regulations authorized by
11 this Act or a lower standard for lead content as may be
12 established by federal law or regulation.

13 "Lead hazard" means a lead bearing substance that poses an
14 immediate health hazard to humans.

15 "Lead poisoning" means the condition of having blood lead
16 levels in excess of those considered safe under State and
17 federal rules and regulations.

18 "Low risk area" means an area in the State determined by
19 the Department to be low risk for lead exposure for children
20 through 6 years of age. The Department shall consider the
21 factors named in "high risk area" to determine low risk areas.

22 "Mitigation" means the remediation, in a manner described
23 in Section 9, of a lead hazard so that the lead bearing
24 substance does not pose an immediate health hazard to humans.

25 "Owner" means any person, who alone, jointly, or severally
26 with others:

27 (a) Has legal title to any dwelling or residential
28 building, with or without accompanying actual possession
29 of the dwelling or residential building, or

30 (b) Has charge, care or control of the dwelling or
31 residential building as owner or agent of the owner, or as
32 executor, administrator, trustee, or guardian of the
33 estate of the owner.

34 "Person" means any one or more natural persons, legal

1 entities, governmental bodies, or any combination.

2 "Residential building" means any room, group of rooms, or
3 other interior areas of a structure designed or used for human
4 habitation; common areas accessible by inhabitants; and the
5 surrounding property or structures.

6 "Risk assessment" means a questionnaire to be developed by
7 the Department for use by physicians and other health care
8 providers to determine risk factors for children through 6
9 years of age residing in areas designated as low risk for lead
10 exposure.

11 (Source: P.A. 89-381, eff. 8-18-95.)

12 (410 ILCS 45/3) (from Ch. 111 1/2, par. 1303)

13 Sec. 3. Lead bearing substance use. No person shall use or
14 apply lead bearing substances:

15 (a) In or upon any exposed surface of a dwelling or
16 dwelling unit;

17 (b) In or around the exposed surfaces of a child care
18 facility or other structure frequented by children;

19 (c) In or upon any fixtures or other objects used,
20 installed, or located in or upon any exposed surface of a
21 dwelling or residential building, or child care facility, or
22 intended to be so used, installed, or located and that, in the
23 ordinary course of use, are accessible to or ~~and~~ chewable by
24 children;

25 (d) In or upon any items, including, but not limited to,
26 clothing, accessories, jewelry, decorative objects, edible
27 items, candy, food, dietary supplements, toys, furniture, or
28 other articles used by or intended to be ~~and~~ chewable by
29 children;

30 (e) Within or upon a residential building or dwelling,
31 child care facility, school, playground, park, or recreational
32 area, or other areas regularly frequented by children.

33 (Source: P.A. 87-175.)

1 (410 ILCS 45/4) (from Ch. 111 1/2, par. 1304)

2 Sec. 4. Sale of items ~~toys or furniture~~ containing lead
3 bearing substance. No person shall sell, have, offer for sale,
4 or transfer toys, ~~or~~ furniture, clothing, accessories,
5 jewelry, decorative objects, edible items, candy, food,
6 dietary supplements, or other articles used by or intended to
7 be chewable by children that contains a lead bearing substance.
8 (Source: P.A. 87-175.)

9 (410 ILCS 45/5) (from Ch. 111 1/2, par. 1305)

10 Sec. 5. Sale of objects containing lead bearing substance.
11 No person shall sell or transfer or offer for sale or transfer
12 any fixtures or other objects intended to be used, installed,
13 or located in or upon any surface of a dwelling or residential
14 building, or child care facility, that contains a lead bearing
15 substance and that, in the ordinary course of use, are
16 accessible to or ~~and~~ chewable by children.
17 (Source: P.A. 87-175.)

18 (410 ILCS 45/6) (from Ch. 111 1/2, par. 1306)

19 Sec. 6. Warning statement. No person, firm, or corporation
20 shall have, offer for sale, sell, or give away any lead bearing
21 substance that may be used by the general public unless it
22 bears the warning statement as prescribed by federal
23 regulation. If no regulation is prescribed the warning
24 statement shall be as follows when the lead bearing substance
25 is a lead-based paint or surface coating: "WARNING--CONTAINS
26 LEAD. DRIED FILM OF THIS SUBSTANCE MAY BE HARMFUL IF EATEN OR
27 CHEWED. See Other Cautions on (Side or Back) Panel. Do not
28 apply on toys, or other children's articles, furniture, or
29 interior, or exterior exposed surfaces of any residential
30 building or facility that may be occupied or used by children.
31 KEEP OUT OF THE REACH OF CHILDREN." If no regulation is

1 prescribed the warning statement shall be as follows when the
2 lead bearing substance contains lead-based paint or a form of
3 lead other than lead-based paint: "WARNING CONTAINS LEAD. MAY
4 BE HARMFUL IF EATEN OR CHEWED. MAY GENERATE DUST CONTAINING
5 LEAD. KEEP OUT OF THE REACH OF CHILDREN.".

6 (a) The generic term of a product, such as "paint" may be
7 substituted for the word "substance" in the above labeling.

8 (b) The placement, conspicuousness, and contrast of the
9 above labeling shall be in accordance with 16 C.F.R. 1500.121
10 ~~Section 191.101 of the regulations promulgated under the~~
11 ~~provisions of the Federal Hazardous Substances Act.~~

12 (Source: P.A. 87-175.)

13 (410 ILCS 45/6.01 new)

14 Sec. 6.01. Warning statement where supplies sold.

15 (a) Any retailer, store, or commercial establishment that
16 offers paint or other supplies intended for the removal of
17 paint shall display, in a prominent and easily visible
18 location, a poster containing, at a minimum, the following:

19 (1) a statement that dry sanding and dry scraping of
20 paint in dwellings built before 1978 is dangerous;

21 (2) a statement that the improper removal of old paint
22 is a significant source of lead dust and the primary cause
23 of lead poisoning; and

24 (3) contact information where consumers can obtain
25 more information.

26 (b) The Department shall provide sample posters and
27 brochures that commercial establishments may use. The
28 Department shall make these posters and brochures available in
29 hard copy and via download from the Department's Internet
30 website.

31 (c) A commercial establishment shall be deemed to be in
32 compliance with this Section if the commercial establishment
33 displays lead poisoning prevention posters or provides

1 brochures to its customers that meet the minimum requirements
2 of this Section but come from a source other than the
3 Department.

4 (410 ILCS 45/6.3 new)

5 Sec. 6.3. Information provided by the Department of
6 Healthcare and Family Services.

7 (a) The Director of Healthcare and Family Services shall
8 provide, upon request of the Director of Public Health, an
9 electronic record of all children less than 7 years of age who
10 receive Medicaid, Kidcare, or other health care benefits from
11 the Department of Healthcare and Family Services. The records
12 shall include a history of claims filed for each child and the
13 health care provider who rendered the services. On at least an
14 annual basis, the Director of Public Health shall match the
15 records provided by the Department of Healthcare and Family
16 Services with the records of children receiving lead tests, as
17 reported to the Department under Section 7 of this Act.

18 (b) The Director shall prepare a report documenting the
19 frequency of lead testing and elevated blood and lead levels
20 among children receiving benefits from the Department of
21 Healthcare and Family Services. On at least an annual basis,
22 the Director shall prepare and deliver a report to each health
23 care provider who has rendered services to children receiving
24 benefits from the Department of Healthcare and Family Services.
25 The report shall contain the aggregate number of children
26 receiving benefits from the Department of Healthcare and Family
27 Services to whom the provider has provided services, the number
28 and percentage of children tested for lead poisoning, and the
29 number and percentage of children having an elevated lead
30 level. The Department of Public Health may exclude health care
31 providers who provide specialized or emergency medical care and
32 who are unlikely to be the primary medical care provider for a
33 child. Upon the request of a provider, the Department of Public

1 Health may generate a list of individual patients treated by
2 that provider according to the claims records and the patients'
3 lead test results.

4 (410 ILCS 45/7.1) (from Ch. 111 1/2, par. 1307.1)

5 Sec. 7.1. Child care facilities must require lead blood
6 level screening for admission. By January 1, 1993, each day
7 care center, day care home, preschool, nursery school,
8 kindergarten, or other child care facility, licensed or
9 approved by the State, including such programs operated by a
10 public school district, shall include a requirement that each
11 parent or legal guardian of a child between the ages of 6
12 months through 6 years provide a statement from a physician or
13 health care provider that the child has been risk assessed, as
14 provided in Section 6.2, if the child resides in an area
15 defined as low risk by the Department, or screened for lead
16 poisoning as provided for in Section 6.2, if the child resides
17 in an area defined as high risk. This statement shall be
18 provided prior to admission and subsequently in conjunction
19 with required physical examinations.

20 Nothing in this Section shall be construed to require any
21 child to undergo a lead blood level screening or test whose
22 parent or guardian objects on the grounds that the screening or
23 test conflicts with his or her religious beliefs.

24 Child care facilities that participate in the Illinois
25 Child Care Assistance Program (CCAP) shall annually send or
26 deliver to the parents or guardians of children enrolled in the
27 facility's care an informational pamphlet regarding awareness
28 of lead paint poisoning. Pamphlets shall be produced and made
29 available by the Department and shall be downloadable from the
30 Department's Internet website. The Department of Human
31 Services and the Department of Public Health shall assist in
32 the distribution of the pamphlet.

33 (Source: P.A. 89-381, eff. 8-18-95.)

1 (410 ILCS 45/8) (from Ch. 111 1/2, par. 1308)

2 Sec. 8. Inspection of buildings occupied by a person
3 screening positive. A representative of the Department, or
4 delegate agency, may, after notification that an occupant of
5 the dwelling unit in question is found to have a blood lead
6 value of the value set forth in Section 7, upon presentation of
7 the appropriate credentials to the owner, occupant, or his
8 representative, inspect dwelling or dwelling units, at
9 reasonable times, for the purposes of ascertaining that all
10 surfaces accessible to children are intact and in good repair,
11 and for purposes of ascertaining the existence of lead bearing
12 substances. Such representative of the Department, or delegate
13 agency, may remove samples or objects necessary for laboratory
14 analysis, in the determination of the presence of lead-bearing
15 substances in the designated dwelling or dwelling unit.

16 If a building is occupied by a child of less than 3 years
17 of age screening positive the Department, in addition to all
18 other requirements of this Section, must inspect the dwelling
19 unit and common place area of the child screening positive.

20 Following the inspection, the Department or its delegate
21 agency shall:

22 (1) Prepare an inspection report which shall:

23 (A) State the address of the dwelling unit.

24 (B) Describe the scope of the inspection, the
25 inspection procedures used, and the method of ascertaining
26 the existence of a lead bearing substance in the dwelling
27 unit.

28 (C) State whether any lead bearing substances were
29 found in the dwelling unit.

30 (D) Describe the nature, extent, and location of any
31 lead bearing substance that is found.

32 (E) State either that a lead hazard does exist or that
33 a lead hazard does not exist. If a lead hazard does exist,

1 the report shall describe the source, nature and location
2 of the lead hazard. The existence of intact lead paint does
3 not alone constitute a lead hazard for the purposes of this
4 Section.

5 (F) Give the name of the person who conducted the
6 inspection and the person to contact for further
7 information regarding the inspection and the requirements
8 of this Act.

9 (2) Mail or otherwise provide a copy of the inspection
10 report to the property owner and to the occupants of the
11 dwelling unit. If a lead bearing substance is found, at the
12 time of providing a copy of the inspection report, the
13 Department or its delegate agency shall attach an informational
14 brochure.

15 (Source: P.A. 87-175; 87-1144.)

16 (410 ILCS 45/9.2 new)

17 Sec. 9.2. Multiple mitigation notices. When mitigation
18 notices are issued for 2 or more dwelling units in a building
19 within a 5-year time period, the Department may inspect common
20 areas in the building and shall inspect units where (i)
21 children under the age of 6 reside, at the request of a parent
22 or guardian of the child or (ii) a pregnant woman resides, at
23 the pregnant woman's request. All lead hazards must be
24 mitigated in a reasonable time frame, as determined by rules
25 adopted by the Department. In determining the time frame for
26 completion of mitigation of hazards identified under this
27 Section, the Department shall consider, in addition to the
28 considerations in subsection (6) of Section 9 of this Act, the
29 owner's financial ability to complete the mitigation.

30 (410 ILCS 45/9.3 new)

31 Sec. 9.3. Financial assistance for mitigation. Whenever a
32 mitigation notice is issued pursuant to Section 9 or Section

1 9.2 of this Act, the Department shall make the owner aware of
2 any financial assistance programs that may be available for
3 lead mitigation through the federal, State, or local government
4 or a not-for-profit organization.

5 (410 ILCS 45/9.4 new)

6 Sec. 9.4. Owner's obligation to post notice. The owner of a
7 dwelling unit or residential building who has received a
8 mitigation notice under Section 9 of this Act shall post
9 notices in common areas of the building specifying the
10 identified lead hazards. The posted notices, drafted by the
11 Department and sent to the property owner with the notification
12 of lead hazards, shall indicate the following:

13 (1) that a unit or units in the building have been
14 found to have lead hazards;

15 (2) that other units in the building may have lead
16 hazards;

17 (3) that the Department recommends that children 6
18 years of age or younger receive a blood lead screening;

19 (4) where to seek further information; and

20 (5) whether mitigation notices have been issued for 2
21 or more dwelling units within a 5-year period of time.

22 Once the owner has complied with a mitigation notice or
23 mitigation order issued by the Department, the owner may remove
24 the notices posted pursuant to this Section.

25 (410 ILCS 45/12) (from Ch. 111 1/2, par. 1312)

26 Sec. 12. Violations of Act.

27 (a) Violation of any Section of this Act other than Section
28 6.01 or Section 7 shall be punishable as a Class A misdemeanor.
29 A violation of Section 6.01 shall cause the Department to issue
30 a written warning for a first offense and shall be a petty
31 offense for a second or subsequent offense if the violation
32 occurs at the same location within 12 months after the first

1 offense.

2 (b) In cases where a person is found to have mislabeled,
3 possessed, offered for sale or transfer, sold or transferred,
4 or given away lead-bearing substances, a representative of the
5 Department shall confiscate the lead-bearing substances and
6 retain the substances until they are shown to be in compliance
7 with this Act.

8 (c) In addition to any other penalty provided under this
9 Act, the court in an action brought under subsection (e) may
10 impose upon any person who violates or does not comply with a
11 notice of deficiency and a mitigation order issued under
12 subsection (7) of Section 9 of this Act or who fails to comply
13 with subsection (3) or subsection (5) of Section 9 of this Act
14 a civil penalty not exceeding \$2,500 for each violation, plus
15 \$250 for each day that the violation continues.

16 Any civil penalties collected in a court proceeding shall
17 be deposited into a delegated county lead poisoning screening,
18 prevention, and abatement fund or, if no delegated county or
19 lead poisoning screening, prevention, and abatement fund
20 exists, into the Lead Poisoning Screening, Prevention, and
21 Abatement Fund established under Section 7.2.

22 (d) Whenever the Department finds that an emergency exists
23 that requires immediate action to protect the health of
24 children under this Act, it may, without administrative
25 procedure or notice, cause an action to be brought by the
26 Attorney General or the State's Attorney of the county in which
27 a violation has occurred for a temporary restraining order or a
28 preliminary injunction to require such action as is required to
29 meet the emergency and protect the health of children.

30 (e) The State's Attorney of the county in which a violation
31 occurs or the Attorney General may bring an action for the
32 enforcement of this Act and the rules adopted and orders issued
33 under this Act, in the name of the People of the State of
34 Illinois, and may, in addition to other remedies provided in

1 this Act, bring an action for a temporary restraining order or
2 preliminary injunction as described in subsection (d) or an
3 injunction to restrain any actual or threatened violation or to
4 impose or collect a civil penalty for any violation.

5 (Source: P.A. 92-447, eff. 8-21-01.)

6 (410 ILCS 45/12.1 new)

7 Sec. 12.1. Attorney General and State's Attorney report to
8 General Assembly. The Attorney General and State's Attorney
9 offices shall report to the General Assembly annually the
10 number of lead poisoning cases that have been referred by the
11 Department for enforcement due to violations of this Act or for
12 failure to comply with a notice of deficiency and mitigation
13 order issued pursuant to subsection (7) of Section 9 of this
14 Act.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.".